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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,453	10/09/2001	Jeffrey L. Stewart	177-043	5967
27771	7590	02/08/2005	EXAMINER	
JACKSON, JAKIEDA R				
ART UNIT		PAPER NUMBER		
2655				

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/973,453	STEWART ET AL.
	Examiner	Art Unit
	Jakieda R Jackson	2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-29 and 31-38 is/are rejected.
- 7) Claim(s) 30 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 October 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings submitted are handwritten and the lines are not defined. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

2. **Claim 30** is objected to because of the following informalities:

- Claim 30 is an exact duplicate of claim 28. Applicant is required to cancel claim, amend the claim to place the claim in proper form or rewrite the claim in independent form.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-2, 4, 6, 8-10, 12, 14, 16-18, 21, 23-27, 29, 31, 34 and 37-38** are rejected under 35 U.S.C. 102(b) as being anticipated by Stewart et al. (USPN 6,045,227), hereinafter referenced as Stewart.

Regarding **claims 1 and 26**, Stewart discloses a method and visual field parameter for establishing fixation in a visual field perimeter, comprising the steps of: displaying to a subject a fixation target using a predetermined symbol (column 3, lines 22-24); inputting the subject's verbal identification of the predetermined symbol (input patient's response; column 3, lines 53-61); evaluating the verbal identification (evaluating the responses) of the predetermined symbol (test object or images) made by the subject using speech recognition (voice recognition and/or audible instructions; column 3, lines 37-61); and upon the subject correctly identifying the predetermined symbol, displaying a visual test stimulus to the subject at a predetermined location within the subject's field of vision (various objects or stimuli viewed; column 3, lines 37-61).

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Regarding **claims 2, 12 and 27**, Stewart discloses the method and visual field parameter further comprising the step of evaluating the verbal identification of the visual test stimulus (evaluating the responses) made by the subject using speech recognition (voice recognition and/or audible instructions).

Regarding **claims 4, 14, 21 and 29**, Stewart discloses the method and visual field parameter further comprising the step of repeatedly carrying out the steps above while relocating the predetermined symbol to a new location (test objects or marks are displayed of varying location; column 5, lines 8-14).

Regarding **claims 6 and 34**, Stewart discloses the method and visual field parameter further comprising the step of moving the fixation target within the field of vision of the subject (fixation displayed at different locations; column 4, lines 64-66).

Regarding **claims 8, 16, 23 and 37**, Stewart discloses the method and visual field parameter wherein the predetermined symbol is a geometrical shape, letter, number, picture, or image that is readily identifiable by the subject (objects or images; column 3, lines 48-51).

Regarding **claims 9, 17, 24 and 31**, Stewart discloses the method and visual field parameter comprising the step of recording whether the subject observes the visual test stimulus (printing and storing the results; column 3, lines 37-44).

Regarding **claims 10, 18, 25 and 38**, Stewart discloses the method and visual field parameter further comprising the step of varying the size, shape, intensity, contrast, frequency and/or color of the visual test stimulus (sizes, shapes, colors, etc. column 3, lines 62-67).

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5. **Claims 1, 5, 26 and 33** are rejected under 35 U.S.C. 102(b) as being anticipated by Sinclair et al. (USPN 5,589,897), hereinafter referenced as Sinclair.

Regarding **claims 1 and 26**, Sinclair discloses a method and visual field parameter for establishing fixation in a visual field perimeter, comprising the steps of:

displaying to a subject a fixation target using a predetermined symbol (target images on a screen of a monitor; column 5, lines 26-35);

inputting the subject's verbal identification of the predetermined symbol (input method such as speech recognition; column 6, lines 1-3);

evaluating the verbal identification of the predetermined symbol made by the subject using speech recognition (column 6, lines 17-21 with column 7, lines 14-22 and column 9, lines 25-27); and

upon the subject correctly identifying the predetermined symbol, displaying a visual test stimulus to the subject at a predetermined location within the subject's field of vision (ensuring fixation by testing within the blind spot; column 7, lines 5-13).

Regarding **claims 5 and 33**, Sinclair discloses the method and visual field parameter wherein the fixation target is a stationary target (column 2, lines 45-50).

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-8, 10-16, 18-23, 25-29 and 32-38** are rejected under 35 U.S.C. 102(e) as being anticipated by Horn (USPN 6,260,970).

Regarding **claims 1 and 26**, Horn discloses a method and visual field parameter for establishing fixation in a visual field perimeter, comprising the steps of:

displaying to a subject a fixation target using a predetermined symbol (symbols presented; column 4, lines 57-62 with column 7, lines 11-25);

inputting the subject's verbal identification of the predetermined symbol (column 7, lines 1-25);

evaluating the verbal identification of the predetermined symbol (identifying targets or marks) made by the subject using speech recognition (column 7, lines 1-25); and

upon the subject correctly identifying the predetermined symbol, displaying a visual test stimulus (blind spot test) to the subject at a predetermined location within the subject's field of vision (column 6, lines 34-55).

Regarding **claims 2, 12 and 27**, Horn discloses the method and visual field parameter further comprising the step of evaluating the verbal identification of the visual test stimulus (identifying blind spot; column 6, lines 34-55) made by the subject using speech recognition (column 7, lines 1-5).

Regarding **claims 3, 13 and 28**, Horn discloses the method and visual field parameter further comprising the step of repeatedly carrying out the steps above for different predetermined symbols (targets/marks momentarily displayed; column 7, lines 12-25).

Regarding **claims 4, 14, 21 and 29**, Horn discloses the method and visual field parameter further comprising the step of repeatedly carrying out the steps above while relocating the predetermined symbol to a new location (moving fixation object repeatedly; column 6, lines 34-43 with column 9, lines 20-25).

Regarding **claims 5 and 33**, Horn discloses the method and visual field parameter wherein the fixation target is a stationary target (column 10, lines 54-57).

Regarding **claims 6 and 34**, Horn discloses the method and visual field parameter further comprising the step of moving the fixation target within the field of vision of the subject (moving fixation object; column 6, lines 34-43).

Regarding **claims 7 and 36**, Horn discloses the method and visual field parameter wherein the visual test stimulus is displayed shortly after the subject correctly identifies the predetermined symbol (column 4, lines 54-64 with column 6, lines 34-55).

Regarding **claims 8, 16, 23 and 37**, Horn discloses the method and visual field parameter wherein the predetermined symbol is a geometrical shape, letter, number, picture, or image that is readily identifiable by the subject (geometric symbols; column 5, lines 53-57 with column 7, lines 13-25).

Regarding **claims 10, 18, 25 and 38**, Horn discloses the method and visual field parameter further comprising the step of varying the size, shape, intensity, contrast, frequency and/or color of the visual test stimulus (contrast sensitivity/color contrast; column 4, line 54 – column 5, line 2).

Regarding **claim 11**, Horn discloses a method for establishing fixation in a visual field perimeter, comprising the steps of:

displaying to a subject a fixation target using a first symbol (fixation object; column 6, lines 34-45);

moving the fixation target along a first direction within the subject's field of vision (moving fixation object; column 6, lines 34-45);

changing the direction of movement of said fixation target (fixation object) from said first direction to a second direction (column 6, lines 34-45);

inputting the subject's verbal indication of the direction when the fixation target changes direction from said first to said second direction (spot is identified; column 6, lines 34-55);

evaluating (determining) the subject's verbal indication using speech recognition that the fixation target changed direction (column 6, lines 34-55); and

upon the subject correctly indicating when the fixation target changes direction from said first to said second direction (moves vertically and horizontally), displaying a visual test stimulus to the subject at a predetermined location within the subject's field of vision (blind spot test; column 6, lines 34-55).

Regarding **claim 15**, Horn discloses the method wherein the visual test stimulus is displayed to the subject shortly after the subject correctly indicates when the fixation target (fixation object) changes direction from said first (horizontally) to said second direction (vertically; column 6, lines 34-55).

Regarding **claim 19**, Horn discloses a method for establishing fixation in a visual field perimeter, comprising the steps of:

displaying to a subject a fixation target (fixation object) using a first symbol (column 6, lines 34-39 with column 7, lines 12-25);

moving the fixation target (moving fixation object) within the field of vision of the subject (column 6, lines 34-39);

changing the appearance of the fixation target from said first symbol to a second symbol (quark, spaceships, etc. column 7, lines 12-25);

inputting the subject's verbal indication (speech/audio) that the fixation target changed from said first to said second symbol (column 7, lines 1-25);

evaluating the subject's verbal indication using speech recognition (speech) that the fixation target changed from said first to said second symbol (quarks, planets etc. column 7, lines 1-25); and

upon the subject correctly indicating when the fixation target (fixation object) changed from said first to said second symbol, displaying a visual test stimulus (blind spot test) to the subject at a predetermined location within the subject's field of vision (column 6, lines 34-55 with column 7, lines 12-25).

Regarding **claim 20**, Horn discloses the method further comprising the step of evaluating the verbal identification of the visual test stimulus (blind spot test; column 6, lines 34-55) made by the subject using speech recognition (speech and/or audio; column 7, lines 1-5).

Regarding **claim 22**, Horn discloses the method wherein the visual test stimulus (blind spot) is displayed to the subject shortly after the subject correctly indicates when the fixation target (fixation object moves) changes from said first to said second symbol (column 6, lines 34-55 with column 7, lines 12-25).

Regarding **claim 32**, Horn discloses the visual field perimeter wherein said means for recording includes voice recognition techniques (column 7, lines 1-5) for evaluating the subject's verbal response in indicating whether the visual test stimulus is observed (once spot identified; column 6, lines 34-55).

Regarding **claim 35**, discloses visual field perimeter further comprising means for changing the direction of the fixation target (moving fixation object horizontally/vertically; column 6, lines 34-55).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 9, 17, 24 and 31** are alternately rejected under 35 U.S.C. 103(a) as being obvious over Horn in view of Stewart et al. (USPN 6,045,227), herinafter referenced as Stewart.

The applied reference has a common assignee and inventive entity with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the

reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Regarding **claims 9, 17, 24 and 31**, Horn discloses a vision screening system but does not specifically teach disclosing the method and visual field parameter comprising the step of recording whether the subject observes the visual test stimulus.

Stewart discloses the method and visual field parameter comprising the step of recording whether the subject observes the visual test stimulus (receives feedback from test object in stimuli by storing and printing the results; column 3, lines 37-61), to evaluate the responses of the patient.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Horn's method and visual field parameter such that it records whether the subject observes the visual test stimulus, to allow the examiner to monitor the patient's responses, which allows a clinician to preprogram a predetermined sequence of visual tests to be performed automatically on the patient (column 3, lines 37-61).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Harada et al. (USPN 6,272,466) discloses a speech detection apparatus using specularly reflected light.
- Neuhaus (USPN 6,350,128) discloses a rapid automatized naming method and apparatus.
- Rorabaugh et al. (USPN 5,035,500) discloses an automated ocular perimetry particularly kinetic perimerty.

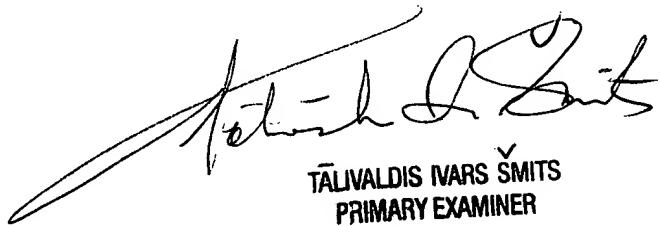
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jakieda R Jackson whose telephone number is 703.305.5593. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 703. 305.4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JRJ
February 3, 2005



TALIVALDIS NARS SMITS
PRIMARY EXAMINER